

**OPINION NO. 16**Interest and Late Charges on Attorneys Fees

Adopted: March 26, 1993.

Repealed: October 25, 2002.

**Comment**

*Opinion No. 16 created a safe harbor from lawyer discipline prosecution for de minimis violations of Truth-in-Lending (TIL) violations associated with interest assessed by lawyers on past due legal fees.*

*In short, lawyers who charged six percent or less without disclosure in a written fee agreement, or eight percent or less disclosed in a written fee agreement, were exempt from lawyer discipline for noncompliance with TIL disclosure requirements under the opinion. Attorneys who charged interest outside of the opinion's guidelines remained subject to lawyer discipline prosecution for TIL disclosure violations.*

*Opinion No. 16's connection to the Rules of Professional Conduct was the reasonable fee requirements of Rule 1.5(a). The opinion postulated that the fee charged was unreasonable if the interest charged was usurious or in violation of TIL because required disclosures were not made. However, the opinion's safe harbor provision, which used the rate of interest charged to draw the line between de minimis and significant TIL violations, was based upon prosecutorial discretion standards and did not originate from any authority in the Rules of Professional Conduct.*